

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1456**

State of Minnesota,
Respondent,

vs.

Krista Michelle Wilson,
Appellant.

**Filed August 7, 2023
Affirmed
Slieter, Judge**

Crow Wing County District Court
File No. 18-CR-20-1942

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Donald F. Ryan, Crow Wing County Attorney, Lindsey S. Lindstrom, Assistant County Attorney, Brainerd, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Anders J. Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Slieter, Judge; and Kirk,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the use of a prior impaired-driving-related license revocation as an aggravating factor enhancing her driving while impaired (DWI) conviction to a third-degree offense. Because this is not a unique case justifying a collateral attack on the prior impaired-driving-related license revocation, we affirm.

FACTS

Following a May 28, 2020 traffic stop, respondent State of Minnesota charged appellant Krista Michelle Wilson with, among other crimes not challenged in this appeal, third-degree DWI, in violation of Minn. Stat. § 169A.20, subd. 1(7) (2018), based on a positive blood test for methamphetamine. The charge was enhanced to a third-degree offense because Wilson's driver's license had been revoked two months earlier based on a November 24, 2019 DWI-related traffic stop. Wilson did not seek judicial review of the revocation within the statutory 60-day period. After the judicial review period to contest the driver's-license revocation had ended, Wilson successfully moved to suppress the evidence of impairment in the related criminal DWI proceeding.

In the present case, which is based on the May 28 stop, Wilson moved to exclude evidence of the license revocation from being used to enhance the DWI charge. She argued that the state could not use the revocation as an aggravating factor because the evidence of impairment had been suppressed in the criminal case related to the November 24 stop. The district court denied Wilson's motion and, in a stipulated-facts trial, found Wilson guilty of third-degree DWI. Wilson appeals.

DECISION

Minnesota law prohibits a person from operating a motor vehicle with any amount of methamphetamine in the person's body. Minn. Stat. §§ 169A.20, subd. 1(7), 152.02, subd. 3(d) (2018). A person who violates this provision "is guilty of third-degree driving while impaired if one aggravating factor was present when the violation was committed." Minn. Stat. § 169A.26, subd. 1(a) (2018). Aggravating factors include "a qualified prior impaired driving incident within the ten years immediately preceding the current offense." Minn. Stat. § 169A.03, subd. 3(1) (2018). A "[q]ualified impaired driving incident" includes prior impaired driving convictions and prior impaired driving-related losses of license." *Id.*, subd. 22 (2018).

We review *de novo* legal conclusions regarding the use of a prior license revocation to enhance DWI charges. *State v. Goharbawang*, 705 N.W.2d 198, 201 (Minn. App. 2005), *rev. denied* (Minn. Jan. 17, 2006); *see also Thole v. Comm'r of Pub. Safety*, 831 N.W.2d 17, 19 (Minn. App. 2013), *rev. denied* (Minn. July 16, 2013) (reviewing *de novo* due-process challenge to license revocation).

Use of an unreviewed license revocation as an aggravating DWI factor does not violate a defendant's due-process rights. *State v. Coleman*, 661 N.W.2d 296, 301 (Minn. App. 2003), *rev. denied* (Minn. Aug. 5, 2003). A challenge to the validity of the underlying revocation used as an aggravating factor is a collateral challenge to the revocation. *Anderson v. Comm'r of Pub. Safety*, 878 N.W.2d 926, 930 (Minn. App. 2016). A collateral challenge attacks the final outcome of another proceeding which is being used as an element of a charged offense. *Davis v. Comm'r of Pub. Safety*, 509 N.W.2d 380, 391-92

(Minn. App. 1993), *aff'd*, 517 N.W.2d 901 (Minn. 1994). Because collateral challenges weaken the finality of judgments, they are allowed only in “unique cases.” *State v. Warren*, 419 N.W.2d 795, 798 (Minn. 1988); *Anderson*, 878 N.W.2d at 930 (citing this aspect of *Warren* in the implied-consent context).

Wilson argues that hers is a unique case because she was indigent and unable to afford counsel to help her seek review of the driver’s-license revocation. Wilson additionally argues that, had she been able to afford counsel and sought judicial review of the driver’s-license revocation, her license revocation would have been rescinded because evidence of intoxication in the related criminal proceeding was suppressed. We are not persuaded that Wilson presents a unique case.

First, parties in civil implied-consent proceedings do not have the right to court-appointed counsel. *Thole*, 831 N.W.2d at 22. Thus, Wilson’s indigency and lack of counsel do not present a unique case.

Second, license revocation “is a civil penalty imposed administratively regardless of the outcome of any criminal proceeding [for DWI] arising from the same incident.” *State v. Hanson*, 356 N.W.2d 689, 692 (Minn. 1984); *see also State v. Lemmer*, 736 N.W.2d 650, 663 (Minn. 2007) (holding that “collateral estoppel is inapplicable to issues litigated in DWI prosecutions that were previously litigated in implied consent proceedings because the Commissioner of Public Safety and the state are not in privity, and in this instance the state did not have a full and fair opportunity to be heard”). Because the proceedings for license revocation and DWI are separate such that issues decided in one proceeding are not precluded from being relitigated in the other, suppression of the evidence and dismissal of

the DWI charges related to the November 24 stop do not indicate that revocation of Wilson's license would have been rescinded, had she challenged it.

Additionally, Wilson mistakenly relies on *Anderson* as support for her claim. There, we concluded that the district court did not have jurisdiction to hear an untimely petition for judicial review of a license revocation and the petitioner's due-process rights were not violated because he had adequate notice of the revocation despite alleged mental incompetence. *Anderson*, 878 N.W.2d at 927-28. In *dicta*, we also noted that arguments about the use of prior revocation as an enhancement "should be raised at the time a person is charged with a crime," not in an implied-consent proceeding. *Id.* at 930 (quotation omitted). Like in *Anderson*, Wilson did not timely challenge her license revocation, and, as discussed, allowing a collateral challenge is not warranted in her case.

Affirmed.